

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS

UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,

Petitioner,

v.

EUGENE TELFAIR AND ROBERT NIXON,

Respondents.

14-JM-0074-PF-004

September 12, 2014

**ORDER GRANTING GOVERNMENT'S MOTION
FOR SUMMARY JUDGMENT AND INITIAL DECISION**

Before the Court is a *Motion for Summary Judgment* ("Motion") filed on May 28, 2014, by the U.S. Department of Housing and Development ("HUD"). In the *Motion*, HUD claims that the material facts forming the basis of HUD's *Complaint*, filed March 21, 2014, cannot be genuinely disputed by Eugene Telfair ("Respondent Telfair"), and that, based on those material facts, HUD is entitled to judgment as a matter of law.¹

On May 30, 2014, the Court received a letter from Respondent Telfair requesting that the matter be continued for a period of 90 days so that he may locate and review the documents necessary to prepare a defense in this matter. By *Second Notice of Hearing and Order*, dated June 3, 2014, the Court granted Respondent Telfair's request and specifically extended the deadline for Respondent Telfair's response to the *Motion* until August 25, 2014.

As of the date of this *Order*, the Court has not received a response from Respondent Telfair. Accordingly, any objection to the granting of the *Motion* is deemed to be waived. See 24 C.F.R. § 26.40(b).

THE PARTIES' POSITIONS

In the *Complaint*, HUD alleges Respondents knowingly made, or caused to be made, four false claims for payment of services in violation of the Program Fraud Civil Remedies Act ("PFCRA"), 31 U.S.C. §§ 3801-3812, as implemented by 24 C.F.R. Part 28. In support of the allegations, the *Complaint* cites Respondents' criminal conviction for stealing or misapplying funds from an organization that receives federal assistance.

¹ The *Motion* also moves for summary judgment against Robert Nixon ("Respondent Nixon") in the event HUD's *Motion for Default Judgment* against Respondent Nixon, filed on May 19, 2014, was not granted. The Court granted HUD's *Motion for Default Judgment* against Respondent Nixon on August 6, 2014.

In his *Answer*, filed April 9, 2014, Respondent Telfair disputes the allegations contained in the *Complaint*. Although Respondent Telfair concedes he was convicted, he claims “the facts of this case clearly do not support the verdict.” Instead, Respondent Telfair claims a contractual relationship existed between himself and the Florida Agricultural & Mechanical University (“FAMU”), wherein a Consulting Services Agreement named him as the payee. Respondent Telfair adds the claims were not false, because “[d]uring the contract period all deliverables were met.”

HUD moves for summary judgment alleging that Respondent Telfair cannot genuinely dispute the material facts in this case as “those facts were established by a court of law in a criminal case against both Respondents.” Respondents were convicted for “conspiring to steal or misapply, and of stealing or misapplying, grant funds awarded to FAMU under HUD’s Historically Black Colleges and Universities (“HBCU”) program, the same federal funds at issue in this case.” HUD relies upon the three-count Indictment of Respondents, their conviction on the three counts, and the analysis on appeal of the evidence adduced at trial to establish the material facts. HUD adds that, “under the common law doctrine of collateral estoppel, Respondents’ criminal convictions in the Northern District of Florida preclude Respondents from litigating or disputing the facts alleged in the Complaint because those are the same facts that supported their criminal convictions.”

APPLICABLE LAW

Standard of Review. Pursuant to 24 C.F.R. § 26.32(l), this Court is authorized to “decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact[.]” The Court may exercise its discretion in application of Rule 56 of the Federal Rules of Civil Procedure. 24 C.F.R. § 26.40(f)(2).

Summary judgment will be granted where no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986); Matsushita Elec. Indus. Corp. v. Zenith Radio Corp., 475 U.S. 574 (1985); Celotex Corp. v. Catrett, 477 U.S. 317 (1986). Summary judgment is a “drastic device” because, when exercised, it cuts off a party’s right to present its case. Nationwide Life Ins. Co. v. Bankers Leasing Ass’n, Inc., 182 F.3d 157, 160 (2d Cir. 1999). “Accordingly, the moving party bears a heavy burden of demonstrating the absence of any material issues of fact.” Id.

In reviewing a motion for summary judgment, the reviewing court must find “all ambiguities and draw all reasonable inferences in favor of the party defending against the motion.” Id.; see also, Lujan v. Nat’l Wildlife Fed’n, 497 U.S. 871, 888 (1990) (“where the facts specifically averred by [the nonmoving] party contradict facts specifically averred by the movant, the motion must be denied”).

Program Fraud Civil Remedies Act. The PFCRA places liability on a person for making, presenting, or submitting a claim the person knows or has reason to know is for payment of services, which the person has not provided as claimed. 31 U.S.C. § 3802(a)(1); 24 U.S.C. § 28.10(a)(1). A claim includes a request, demand, or submission made to an authority for money if any portion of the money was provided by, or will be reimbursed by, the United States. 31

U.S.C. § 3801(a)(3). Each individual request or demand for money constitutes a separate claim, and is subject to a civil penalty regardless of whether the money is actually paid. 24 C.F.R. § 28.10(a)(2) and (4). However, if the Government has actually made payment on the claim, then the person may be assessed up to twice the amount of the claim. 24 C.F.R. § 28.10(a)(6).

If the person is found liable for one or more false claims, the amount of penalties imposed shall be based on consideration of evidence in support of one or more specific factors listed in 24 C.F.R. § 28.40(b).

UNDISPUTED FACTS

1. Between 2002 and 2004, HUD awarded FAMU approximately \$596,684.47 in grant funds from the HBCU program.
2. The grant funds were awarded based upon FAMU's representation, among others, that a portion of the funds would be used for a Micro-Loan Program to be operated by the FAMU Institute.
3. In January of 2002, an account was opened at the FAMU Federal Credit Union ("FAMU FCU") in the name of CCEDI-FAMU Urban Policy Grant ("CCEDI account") for the HBCU grant funds.
4. Respondent Telfair was the President of FAMU FCU.
5. Respondent Telfair operated as an agent of FAMU with respect to the administration of the Micro-Loan Program and the distribution of micro-loans pursuant to that program.
6. Between 2002 and 2008, FAMU deposited approximately \$324,900 in HBCU grant funds into the CCEDI account.
7. Between 2002 and 2008, the FAMU Institute offered micro-loans to qualified owners of small business to be used for business-related expenses.
8. The micro-loans were secured by the HBCU grant funds in the CCEDI account. If and when certain micro-loans went into default, the grant funds were to be used to pay off the balance of the loans.
9. When the CCEDI account was opened in 2002, Respondent Telfair was listed as one of the authorized signers on the account.
10. In May of 2005, Respondent Nixon became the Director of the FAMU Institute, and his responsibilities included oversight of the Micro-Loan Program.
11. In June of 2008, Respondent Nixon was added as an authorized signer on the CCEDI account.

12. Between June 2008 and December of 2008, Respondents Telfair and Nixon wrote checks to one another from the CCEDI account and characterized the payments as administrative or consulting fees.
13. However, neither Respondents Telfair nor Nixon had performed the administrative and consulting services that would entitle them to payment of the grant funds.
14. In particular, the following checks are relevant to this *Complaint*:
 - a. Check No. 1:
 - i. On June 26, 2008, Respondent Nixon wrote a check on the CCEDI account payable to Respondent Telfair in the amount of \$10,085.75 ("Check No. 1").
 - ii. The memo line on Check No. 1 stated "Consulting fee."
 - iii. Respondent Telfair was not entitled to the payment of the Consulting fee identified in Check No. 1.
 - b. Check No. 2:
 - i. On July 23, 2008, Respondent Nixon wrote a check on the CCEDI account payable to Respondent Telfair in the amount of \$4,034 ("Check No. 2").
 - ii. The memo line on Check No. 2 stated "Micro Admin Fee."
 - iii. Respondent Telfair was not entitled to payment of the Micro Admin Fee identified in Check No. 2.
 - c. Check No. 3:
 - i. On December 4, 2008, Respondent Nixon wrote a check on the CCEDI account payable to Respondent Telfair in the amount of \$60,067.55 ("Check No. 3").
 - ii. The memo line on Check No. 3 stated "Admin."
 - iii. Respondent Telfair was not entitled to payment of the Admin fee identified in Check No. 3.
 - d. Check No. 4:
 - i. On December 4, 2008, Respondent Telfair wrote a check on the CCEDI account payable to Respondent Nixon in the amount of \$60,067.55 ("Check No. 4").
 - ii. The memo line of the check stated "Consulting."
 - iii. Respondent Nixon was not entitled to payment of the Consulting fee identified in Check No. 4.
15. Respondents created false, fraudulent, or misleading consulting contracts, personal services agreements, Internal Revenue Service forms, and other documents in an attempt to conceal their illegitimate and wrongful taking of the grant funds.
16. One of those false, fraudulent, or misleading documents was a personal services agreement and addendum dated, November 3, 2008 ("Personal Services Agreement").

17. Pursuant to the Personal Services Agreement, Respondents Telfair and Nixon named themselves as “contract administrators.”
18. Pursuant to the Personal Services Agreement, Respondents Telfair and Nixon agreed to disburse the balance remaining in the CCEDI account after any loan offsets, as administrative fees to be equally split between them.
19. The micro-loan program ended on August 20, 2008.
20. On or about December 4, 2008, Respondent Nixon wrote Check No. 3 in the amount of \$60,067.55 to Respondent Telfair.
21. On or about December 4, 2008, Respondent Telfair wrote Check No. 4 in the amount of \$60,067.55 to Respondent Nixon.

DISCUSSION

I. There is no genuine dispute as to the material facts.

HUD submits that Respondent Telfair cannot genuinely dispute the allegations contained in the *Complaint* because the allegations were established as facts by a court of law in Respondent Telfair’s criminal conviction.

Estoppel is as applicable to the decisions of criminal courts as it is to those of civil jurisdiction. Frank v. Mangum, 237 U.S. 309, 334 (1915). It is, therefore, “well established that a prior criminal conviction may work an estoppel in favor of the Government in a subsequent civil proceeding.” Emich Motors Corp. v. Gen. Motors Corp., 340 U.S. 558, 568 (1951). However, the doctrine’s application is limited to “questions distinctly put in issue and directly determined in the criminal prosecution.” Id. at 569. Therefore, this Court must determine what, exactly, was decided in Respondent Telfair’s criminal proceeding.

Respondent Telfair was convicted, in pertinent part, of stealing or misapplying funds from an organization receiving federal assistance, in violation of 18 U.S.C. § 666(a)(1)(A). U.S. v. Telfair, No. 4:10cr50-001 (N.D. Fla. Jan. 27, 2011). To prove guilt under this statute, the government was required to prove, in pertinent part, that: (1) Respondent Telfair converted the property owned by, or under the care, custody, or control of an organization receiving federal assistance; (2) Respondent Telfair was an agent of such an organization; (3) the property was valued at \$5,000 or more; and (4) the organization received in excess of \$10,000 in federal funds during the 1-year period in which Respondent converted the property. U.S. v. Telfair, No. 4:10-cr-00050-RH-WCS-1, at 6 (11th Cir. 2012). The facts supporting Respondent Telfair’s conviction are found in an Indictment, dated July 6, 2010.

The Indictment, laid out in detail, the charges against Respondent Telfair. In Count Two of the Indictment, a Grand Jury charged Respondent with knowingly stealing, obtaining by fraud, and intentionally misapplying funds from an organization receiving benefits Federal assistance,

in violation of 18 U.S.C. § 666(a)(1)(A). Indictment at 5, U.S. v. Telfair, No. 4:10-cr-00050-RH-WCS (N.D. Fla. July 6, 2010). Specifically, the Indictment charged that Respondent Nixon wrote Respondent Telfair three checks in the amounts of \$10,085.75, \$4,034, and \$60,067.55. Id. at 6-7. These checks were drawn on the CCEDI account and were dated June 26, 2008, July 24, 2008, and December 4, 2008, respectively. Id. In addition, the Indictment charged that Respondent Telfair wrote Respondent Nixon a check in the amount of \$60,067.55 that was dated December 4, 2008, and drawn on the CCEDI account. Id. at 7.

The Indictment states that, in an attempt to legitimize the conversion of these funds, Respondents would “create false, fraudulent, and misleading consulting contracts, personal services agreements, and other documents.” Id. at 5. The specific documents cited in the Indictment were a Personal Services Agreement, dated November 3, 2008, and an Addendum naming Respondents as Contract Administrators “responsible for the day-to-day administration of the Micro-Loan Program as Independent contractors . . . eligible to collect administrative fees from the balance remaining less any loan offsets; these funds are to be disbursed equally among the Plan Administrators.” Id. at 6-7. The Indictment states that Respondents would then write checks to one another “characterizing these payments as consulting and administrative fees, when in truth and fact, and as [Respondents] well knew, they had not performed administrative and consulting services that would entitle them to payment of \$134,253 in federal grant funds from the CCEDI account.” Id. at 5.

On November 12, 2010, Respondent Telfair was found guilty on Count Two of the Indictment, as well as on the other counts. U.S. v. Telfair, No. 4:10cr50-001. On appeal, the appellate court affirmed the judgment finding the evidence to be “sufficient for a reasonable jury to conclude that Telfair . . . knowingly and willfully stole at least \$134,000.00 in grant funds belonging to FAMU.” U.S. v. Telfair, No. 4:10-cr-00050-RH-WCS-1, at 6. The court found that the evidence showed “[Telfair and Nixon] drafted multiple false contracts in an attempt to facilitate and conceal their theft of the remaining grant funds in the CCEDI-FAMU account. Telfair conspired with Nixon to draft three fraudulent ‘contracts’ in order to facilitate and conceal their scheme to steal the grant money remaining in the account.” Id. The court specifically cited the Personal Services Agreement, its addendum, and Check Nos. 1, 2, 3, and 4 in support of Respondent Telfair’s conviction.

While Respondent Telfair disputes the allegations in the *Complaint*, a comparison of the Indictment and the *Complaint* reflects that the charges in Count Two of the Indictment are repeated, virtually verbatim, in the alleged facts of the *Complaint*. Respondent Telfair was found guilty on Count Two of the Indictment, and his conviction was affirmed by an appellate court. Moreover, a review of the appellate court’s decision indicates that the court already considered and addressed the very claims Respondent Telfair now raises in this proceeding. Accordingly, the Court finds that Respondent Telfair is collaterally estopped from raising an issue as to the material facts asserted in the *Complaint*. See Posey v. Skyline Corp., 702 F.2d 102 (7th Cir. 1983), cert. denied, 464 U.S. 960 (1983) (To raise a question of fact, Respondent must set forth “specific facts showing that there is a genuine issue for trial.”).

II. HUD is entitled to judgment as a matter of law.

HUD claims it is entitled to judgment as a matter of law, because the material facts establish Respondents' liability under the PFCRA. As noted, *supra*, liability under the PFCRA requires that a person submit a claim that the person knows or has reason to know is for payment of services, which the person has not provided as claimed. 31 U.S.C. § 3208(a)(1) and 24 C.F.R. § 28.10(a).

As found above, Respondent Telfair endorsed Check Nos. 1, 2, and 3, even though he was not entitled to the money being requested. Respondent Telfair also wrote Check No. 4 to Respondent Nixon. Respondent Nixon endorsed Check No. 4 even though he was not entitled to the money being requested. Each check constitutes a separate claim under the PFCRA. See 24 C.F.R. § 28.10(a)(2) and (4). Moreover, Respondents knew they had not performed the administrative and consulting services that would entitle them to payment. Accordingly, the Court finds Respondent Telfair is liable for four counts of false claims under the PFCRA, and HUD is entitled to judgment as a matter of law.²

PENALTY FACTORS

The amount of penalties imposed shall be based on consideration of evidence in support of one or more of the factors as listed in 24 C.F.R. § 28.40(b). Each of the factors, as applicable in the fact of this case, is discussed below.

(1) The number of false, fictitious, or fraudulent claims or statements.

Respondent Telfair made, or caused to be made, four false claims for payment on services that were not provided as claimed. Specifically, Respondent submitted Check Nos. 1, 2, and 3, to the FAMU FCU demanding payment for services he had not performed. Respondent Telfair, by signing Check No. 4, caused said check to be submitted to the FAMU FCU demanding payment to Respondent Nixon for services Respondent Telfair knew Respondent Nixon had not performed.

(2) The time period over which such claims or statements were made.

Over a period over five months, Respondent made or caused to be made, the four false claims under the PFCRA.

(3) The degree of Respondent's culpability with respect to the misconduct.

Respondent Telfair was fully culpable for making or causing to be made, the four false claims that he knew were false. He either wrote or endorsed Check Nos. 1, 2, 3, and 4. In order to facilitate and conceal the scheme to convert the grant funds, Respondent Telfair conspired with Respondent Nixon to draft fraudulent contracts, personal services agreements, Internal

² Specifically, by endorsing Check Nos. 1, 2, and 3, Respondent Telfair made a demand for payment of grant money to which he was not entitled. By signing Check No. 4, Respondent Telfair caused a demand for payment of grant money to be made to Respondent Nixon even though Respondent Nixon was not entitled to the grant money.

Revenue Service forms, and other documents. As evidence of Respondent Telfair's culpability, HUD submits Respondent Telfair's conviction for stealing or misapplying funds from an organization that receives federal assistance, in violation of 18 U.S.C. § 666(a)(1)(A).

(4) The amount of money or the value of the property, services, or benefit falsely claimed.

The record shows that Respondent Telfair made or caused to be made a total of \$134,255.15 in falsely claimed money. This amount is over 40 percent of the HBCU grant funds deposited into the CCEDI account between 2002 and 2008. As noted, *supra*, the HBCU grant funds were to be used to pay off the balance of defaulted micro-loans made to qualified owners of small businesses to be used for business-related expenses.

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the cost of investigation.

HUD submits that its actual loss was \$134,255.15, plus the costs of investigation. HUD notes that while the Northern District of Florida has ordered Respondents to pay restitution in the amount of HUD's actual loss, there is no evidence that restitution has been paid by either Respondent.

(6) The relationship of the civil penalties to the amount of the Government's loss.

HUD has requested four civil penalties in the amount of \$7,500 each or \$30,000 total, for the four false claims Respondents made or caused to be made. HUD notes that the total civil penalty sought is approximately 22% of the amount of HUD's loss.

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs.

Respondent Telfair was the President of the FAMU FCU and was charged with administering the Micro-Loan program. In that regard, Respondent Telfair was in a position of trust. His fraudulent administration and of a Federal program jeopardizes the public's confidence that similar programs are appropriately administered.

(8) Whether Respondent has engaged in a pattern of the same or similar misconduct.

Respondent Telfair engaged in a pattern of the same misconduct by making or causing to be made, each of the four claims over a period of nearly six months. There is no evidence of any other similar conduct.

(9) Whether Respondent attempted to conceal the misconduct.

Respondent Telfair actively attempted to conceal the illegitimate conversion of the grant funds. As noted, *supra*, Respondent Telfair conspired with Respondent Nixon to draft several documents to facilitate and conceal their scheme to convert the grant funds.

(10) The degree to which Respondent has involved others in the misconduct or in concealing it.

It is unclear whether the scheme originated in the mind of Respondent Telfair or Respondent Nixon. However, the record reflects that both Respondents worked together in making the four false claims, and concealing their misconduct. HUD does not allege, nor does the record reflect that persons other than Respondents were involved.

(11) If the misconduct of employees or agents is imputed to Respondent, the extent to which Respondent's practices fostered or attempted to preclude the misconduct.

The allegations in the *Complaint* rely on Respondents' own conduct and not on imputed liability.

(12) Whether Respondent cooperated in or obstructed an investigation of the misconduct.

HUD submits that the Assistant United States Attorney who prosecuted the criminal case stated that Respondents Telfair and Nixon obstructed the investigation and prosecution of the criminal case. However, the record does not reflect the extent of that obstruction.

(13) Whether Respondent assisted in identifying and prosecuting other wrongdoers.

There is no evidence in the record of this proceeding, or in the criminal court documents submitted to this Court on this factor.

(14) The complexity of the program or transaction, and the degree of Respondent's sophistication with respect to it, including the extent of Respondent's prior participation in the program or in similar transactions.

At all times relevant to this case, Respondent Telfair was the President of the FAMU FCU. From the inception of the Micro-Loan program in 2002, Respondent Telfair was tasked with its administration. Therefore, it is reasonable to infer that Respondent Telfair, during the over six years that he was responsible for administering the Micro-Loan program, had become quite sophisticated with the Micro-Loan program.

(15) Whether Respondent has been found, in any criminal, civil, or administrative proceeding, to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly.

As noted, *supra*, Respondent Telfair was found guilty of the same misconduct in a criminal proceeding and sentenced to a prison term of 30 months as well as restitution in the amount of \$134,255.15 to be paid jointly or severally by him and Respondent Nixon. There is no evidence of any other proceeding in which Respondent Telfair was found to have engaged in similar misconduct.

(16) The need to deter Respondent and others from engaging in the same or similar misconduct.

HBCU grants are competitively awarded to historically black colleges and universities to expand their role and effectiveness in addressing community development needs, including neighborhood revitalization, housing, and economic development in their localities. 24 C.F.R. § 570.404(a). The mission of the HBCU program is important and it is essential that those who are entrusted with administering the grant funds do so appropriately. Therefore, the need to deter persons such as Respondent Telfair is great.

(17) Respondent's ability to pay.

The regulations implementing PFCRA define “ability to pay” as including “Respondent's resources available both presently and prospectively.” The burden rests with the respondent to show that he cannot pay the requested amount. *Campbell v. U.S.*, 365 U.S. 85, 96 (1961). Here, Respondent has not submitted any evidence demonstrating an inability to pay the amount of the civil penalty requested by HUD. HUD, however, submits that Respondent Telfair owns three properties in Florida, but that the Department of Justice has recorded a lien against an unspecified property that Respondent owns.

(18) Any other factors that in any given case may mitigate or aggravate the seriousness of the false claim or statement.

The record does not reflect any other factors which may mitigate or aggravate the seriousness of Respondent Telfair's false claims.

CONCLUSION

The Court finds that Respondent Telfair's criminal conviction on the same facts here asserted is sufficient to collaterally estop Respondent Telfair from challenging any material fact alleged in the *Complaint*. A review of these facts demonstrates that HUD is entitled to judgment as a matter of law.


Based upon the foregoing, the Court finds that Respondent Telfair is liable under the PFCRA for making or causing to be made, four counts of false claims that totaled \$134, 255.15. After review of the factors set forth at 24 C.F.R. § 28.40(b), the Court finds HUD is entitled to

relief in the form of civil penalties in the amount of \$30,000 (representing \$7,500 in civil penalties for each of the four false claims) plus an assessment of \$134,254.55. The assessment is twice the amount of their false claims, or \$268,509.70, minus the \$134,255.15 in restitution that Respondents have been ordered to pay in their criminal conviction, for a total award of \$164,254.55.

ORDER

Accordingly, it is **ORDERED** that,

- (1) the Government's *Motion for Summary Judgment*, as it pertains to Respondent Telfair, is **GRANTED**;
- (2) the Government's *Motion for Summary Judgment*, as it pertains to Respondent Nixon, is **DENIED** as moot;³ and
- (3) Respondents Telfair and Nixon are jointly and severally liable for a total award of \$164,254.55 (comprised of \$30,000 in civil penalties and an assessment of \$134,254.55).


J. Jeremiah Mahoney
Chief Administrative Law Judge (Acting)

Notice of appeal rights. The appeal procedure is set forth in detail in 24 C.F.R. § 26.52. This order may be appealed to the Secretary of HUD by either party within 30 days after the date of this decision. The Secretary (or designee) may extend this 30-day period for good cause. If the Secretary (or designee) does not act upon the appeal within 30 days, this decision becomes final.

Service of appeal documents. Any petition for review or statement in opposition must be served upon the Secretary by mail, facsimile, or electronic means at the following:

U.S. Department of Housing and Urban Development
Attention: Secretarial Review Clerk
451 7th Street, S.W., Room 2130
Washington, DC 20410

Facsimile: (202) 708-0019

Scanned electronic document: secretarialreview@hud.gov

Copies of appeal documents. Copies of any Petition for Review or statement in opposition shall also be served on the opposing party(s), and on the HUD Office of Administrative Law Judges.

Judicial review of final decision. Judicial review of the final agency decision in this matter is available as set forth in 31 U.S.C. § 3805.

³ The foregoing analysis and the evidence of record would also support the entry of summary judgment against Respondent Nixon in this matter, but for the previously noted *Default Judgment* already entered against him.